

SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL

DECEMBER 6, 2010

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mrs. Charest, Mr. McGee, Mr. Zwolenski and Mr. Yazbak. Also in attendance was Town Administrator Hamilton.

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PRESENTATION OF CITATIONS

Citations were presented to members of the North Smithfield High School Girls Tennis Team and their coaches for winning the state title in their division.

ADOPTION OF TOWN COUNCIL RULES OF ORDER

Proposed amended Rules of Order were read by Mr. Yazbak.

In reference to #19 and #20, Mr. Zwolenski made the point that Council members should not be appointed to a sub-committee, he/she should be able to volunteer.

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. McGee, and voted unanimously on a role call vote to adopt the Town Council

Rules of Order as presented.

COUNCIL LIAISON POSITIONS

At the inauguration Mr. Yazbak had asked Council members to work with various departments in order to try to divide up some of the responsibilities.

Mr. McGee agreed to be the go to person for school and municipal facilities and the public works department.

Ms. Alves agreed to work with the School Committee on the financial aspects of the School Department.

Mrs. Charest was asked to be the liaison between the Council and the School Department on non-financial issues and she agreed.

Mr. Zwolenski offered to be the liaison to Planning, Zoning and Inspections.

Mr. Yazbak took on the responsibilities of working with the Town Administrator, Finance Director, Police Department and Fire Department.

FINANCIAL STATUS OF TOWN

Finance Director Brian Silvia handed out financial reports for the month of November. He stated year-to-date the town is about

\$150,000 ahead of expenses. The town is in very good shape with having collected fifty-three percent of current taxes. On the down side there is a \$5.5 million revenue budget from the state and the town has only received \$268,000 to date. Most departments are where they should be with expenditures with public works being a little higher because of purchases already made for snow removal.

FIRE CODE VIOLATIONS

Mr. Silvia stated there are two main violations, one being at the police station where it has been determined that, in case of an emergency, any prisoner needs to be removed from his cell within two minutes. Staffing needs to be available 24 hours per day and compliance will be a great expense to the town. Overtime for the month of November approached \$9,000. Mr. Silvia and Mrs. Hamilton are working with Chief Reynolds on possible long-term solutions.

Mr. Pendergast spoke about the violation regarding the fuel dispensing fire suppression system at the highway barn. He will have to go out to bid for the system but in the meantime there are fire extinguishers and shut-offs at the fuel tanks.

All other issues at other town facilities have been taken care of except for the fire alarm system at Town Hall but there has been an extension of time until 2012 to correct that.

SCHOOL DEPARTMENT DEFICIT

Mr. Silvia has received information that the school department is projecting a \$375,000 deficit for this fiscal year. They are working internally to address the issue. Mr. Silvia has been in contact with the Auditor General's office and the Office of Municipal Affairs to be sure the town is in compliance with everything.

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DIRECTION FOR BUDGET COMMITTEE

Mr. Yazbak thought it would be a good idea to give the Budget Committee some recommendation as to the framework of an acceptable budget. Per state law the spending increase cap for next year is 4.25 percent. Mr. Yazbak would like to see no tax increase next year although that may be unlikely.

Ms. Alves agreed with the 4.25 percent cap and no tax increase.

Mrs. Charest is not sure a no tax increase is feasible if the town doesn't have something to grow on. She estimates approximately a 2.25 percent increase.

Mr. Zwolenski stated the municipal side of government has always suffered the brunt of any penny pinching. It will be a difficult year but he would like to stay with the 4.25 percent increase and see what develops.

Mr. McGee wants to see what happens and work it out together.

ABATEMENTS

Tax Assessor Chris Belair asked for this to be tabled to a future meeting because she would like to meet with each Council member individually first to explain how her side of municipal government works.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to table this matter to December 20, 2010.

PUBLIC HEARING RE: WIND TURBINE ORDINANCE

Town Planner Robert Ericson explained the wind turbine ordinance came from the Ordinance Review Committee with the approval of the Planning Board. In discussions with the prior Town Council, there was a significant difference of opinion as to whether there should be allowance by right for smaller turbines. There was also discussion whether special permit requirements were too expensive for people who were interested and would otherwise discourage investment. Mr. Ericson's recommendation was that the Council members familiarize themselves with the ordinance and at the December 20th meeting he would make a recommendation in which direction the Ordinance Review Committee should go. He would prefer to have the Ordinance Review Committee a sub-committee of the Town Council.

Mary Vallee of Sunnycrest Avenue has done research and is concerned with noise. The turbines have caused decreased property values in many areas.

Mr. Zwolenski shared Ms. Vallee's concerns about noise and agreed that a 400 foot tower would affect a property's value.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to continue the hearing to January 3, 2011.

DIRECTION FOR FUTURE CONTRACT NEGOTIATIONS

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to table this discussion until after the public hearings.

PUBLIC HEARING RE: REZONING OF PROPERTY ON VICTORY HIGHWAY – NORTH PINE RESIDENCES, LLC AND DAS CONTRACTING CORPORATION

Mr. Ericson explained that the Planning Board has found this proposal consistent with the Comprehensive Plan.

Attorney Richard Kirby, representing the petitioners, explained they are seeking to build a privately-owned, taxable assisted living facility, nursing home and/or active community over 55 years of age. It will not be low-income housing. Mr. Kirby spoke about some of the

experts and testimony he will be presenting at a future public hearing.

Mr. Yazbak asked if this would be considered a part of the Silver Pines development and was told that it was not.

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Mr. Joseph DeMayo of 62 Alpine Way believes this facility will have a sewer connection but there is no city water there and the water pressure in the Silver Pines development is already low. He added that Victory Highway is a highly traveled road. Mr. DeMayo complained that the developer wants to construct this facility when he hasn't even completed Silver Pines Phase II.

Mr. Ericson pointed out that the Planning Board changed the description of what the developers were going to build to assisted living facilities, nursing facilities or 55 plus active living facilities.

Thomas Butler of 1160 Victory Highway lives right next to the proposed entrance and felt there would be many ambulances and an increase in traffic in the area.

Arthur Harnois of 10 Silver Pines Boulevard asked Mr. Ericson if Phase II could become senior citizen housing and was told that, theoretically, it could.

Laurie DeMayo of 62 Alpine Way had been told there would be 128 units in Silver Pines to share in expenses of upkeep and services. There are only 62 units and they are missing the revenue from the other 66 units. She felt there was misrepresentation in the marketing to her.

Mr. Yazbak stated Mrs. DeMayo's concerns were valid but this new proposal really has nothing to do with Silver Pines.

John Quirk of 38 Alpine Way is concerned with the access to the back area if they decide to build. The road is already starting to fail and he can't imagine bringing heavy trucks on that asphalt. He has been told the town won't accept the road because it doesn't meet certain criteria.

Luis DeSousa of 1181 Victory Highway feels the property value of his house will drop.

Mr. Zwolenski asked Mr. Kirby if there would be any federal money used in this project and was told no.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to continue this public hearing to February 7, 2011.

PUBLIC HEARING RE: APPLICATION FOR EXEMPTION FROM NOISE ORDINANCE – NARRAGANSETT ELECTRIC CO. D/B/A NATIONAL GRID FOR RI RELIABILITY PROJECT

Attorney Peter Lacouture, representing National Grid, stated they are seeking relief from the hour restrictions and noise limitations of the ordinance in order to work extended hours on the project.

Mr. Lacouture took testimony from Project Manager David Beron who explained the purpose of this construction is to provide reliable service to the greater Rhode Island area. It is a phased construction with a completion date expected in the first quarter of 2013.

Mr. Beron explained they are seeking relief from the ordinance to work extended hours in the off-peak times in order to get prepared for those times when they can get lines out of service to erect towers and string wires. They believe working the extended hours will provide less impact to abutters. The noise resulting from the project will be temporary and intermittent. Mr. Beron added that denial of the exemption could possibly draw out the length of construction by a year or more.

Mr. Lacouture confirmed the company is seeking to work from 7:00 A.M. to 7:00 P.M. seven days per week with the proposed condition that they won't engage in construction before 9:00 A.M. on Sundays within 500 feet of a residence. They do want the ability to work overnight whenever required by the Department of Transportation for

activities such as stringing wire.

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Mr. Paul Soares commented that there is a noise ordinance for a reason and he did not agree with the Sunday construction.

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to close the public hearing.

MOTION by Mr. McGee, seconded by Ms. Alves, and voted unanimously on a roll call vote to extend the hours of operation for National Grid's Reliability Project and give an exemption of the noise ordinance for the hours of 7:00 A.M. to 7:00 P.M. on Monday through Sunday with the exception that heavy drilling, rock cracking, etc. will not occur on Sunday until 9:00 A.M.

DIRECTION FOR FUTURE CONTRACT NEGOTIATIONS

Mr. Yazbak and Mrs. Charest met to review items they would like to see used as guidelines by the Town Administrator in future contract negotiations for the period of December 2010 to November 30, 2012. A list was provided in regards to raises, holidays, vacation time, personal time, sick time, longevity, uniform allowances, retiree health care, health insurance buy-back and health care co-share.

Mr. Yazbak and Mrs. Charest would like the Council to meet with the Town Administrator, Town Solicitor and anyone else on a negotiating team to work specifics.

Mrs. Charest, after another review of the document, wished to include that raises would be dependent upon performance evaluations and also that health care co-payments for new hires begin at twenty percent.

MOTION by Ms. Alves and seconded by Mr. Zwolenski to adopt the framework for future contract negotiations.

Mr. Zwolenski questioned holidays, vacation time and sick days and it was explained that these proposals were just a framework.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to accept the amendments voiced by Mrs. Charest.

Ms. Alves amended her motion, Mr. Zwolenski amended his second, and it was voted unanimously on a roll call vote to adopt the framework for future contract negotiations as amended.

APPOINTMENT OF DEPARTMENT HEADS AND MISCELLANEOUS POSITIONS

Mrs. Hamilton announced the following appointments: Brian Silvia -

Finance Director; Brenda MacDonald - Assistant Finance Director; Debra Todd - Town Clerk; Darlene Bourgette - Administrative Assistant to the Police Chief; Robert Ericson - Town Planner; Patricia Paul - Deputy Town Clerk; M. Chris Belair - Tax Assessor; Louise Tetreault - Administrative Assistant to the Town Administrator; Raymond Pendergast - Public Works Director and Parks and Recreation Director; Robert Benoit - Building Inspector and Zoning Official; Russell Carpenter, Sewer & Water Superintendent; James Wilcox - Sewer and Water Department Co-ordinator; and Doug Denomme – Assistant Sewer and Water Superintendent.

MOTION by Mr. McGee, seconded by Mrs. Charest, and voted unanimously on an aye vote to accept and place on file for all appointments except the Town Clerk and the Deputy Town Clerk.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski and Ms. Alves, and voted unanimously on an aye vote to approve the Town Administrator's appointment of Debra Todd as Town Clerk.

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. McGee, and voted unanimously on an aye vote to approve the Town Administrator's appointment of Patricia Paul as the Deputy Town Clerk.

APPOINTMENTS TO CONSERVATION COMMISSION

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted

unanimously on an aye vote to approve the reappointments made by Mrs. Hamilton of Michael Johnson, Paul Soares and Glenn Vario to the Conservation Commission. These are three-year terms that will expire on December 1, 2013.

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APPOINTMENT TO JUVENILE HEARING BOARD

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to accept and place on file Mrs. Hamilton's appointment of Donna Deragon to the Juvenile Hearing Board. This is a three-year term that will expire on December 1, 2013.

APPOINTMENTS TO THE PARKS AND RECREATION COMMISSION

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on an aye vote to confirm Mrs. Hamilton's nominations of Wayne Narodowy, H. Anthony Deller, Robert Cesario, Theodore Soly, Brian Barry, Philip Paul and Peter Dowling to the Parks and Recreation Commission. These are two-year terms that will expire on December 1, 2012.

APPOINTMENTS TO PERSONNEL BOARD

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to approve Mrs. Hamilton's reappointment of Thomas Furey and her appointment of Paul Leclerc to the Personnel Board. Mr. Furey's appointment is for a two-year term that will expire on December 1, 2012 and Mr. Leclerc will be

completing the three-year term of Suzanne Bernier that will expire on December 1, 2012.

MISCELLANEOUS APPOINTMENTS

Mrs. Hamilton made the following appointments: Public Safety Director – Paulette Hamilton; Emergency Management Agency Director – Peter Branconnier; Electrical Inspector – Roger Menard; Electrical Assistants – Paul Shatraw, Michael Samborsky and Joseph Therien; and Plumbing and Mechanical Inspector – Michael Yuszczak.

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to receive and place on file.

VEHICLE DAMAGE CLAIM – D. CARROLL

Mr. Pendergast, Public Works Director, told the Council that the vehicle has been repaired at a cost of \$538.17, which does not include sales tax.

1ST READING ORDINANCE AMENDMENT RE: SALARIES AND WAGES

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to table this to the December 20, 2010 meeting.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote at 9:56 P.M. to extend the meeting to

10:30 P.M.

APPOINTMENT TO ASSESSOR'S BOARD OF REVIEW

MOTION by Ms. Alves, seconded by Mr. Zwolenski and Mrs. Charest, and voted unanimously on an aye vote to appoint Sherri Mercurio to the Assessor's Board of Review. This is a three-year term that will expire on December 1, 2013.

A second appointment was continued to the December 20th meeting.

APPOINTMENTS TO BUDGET COMMITTEE

Mrs. Charest appointed Paul Vadenais to a two-year term.

Ms. Alves appointed Alfred Puccetti to a three-year term.

Mr. McGee appointed Teresa Bartomioli to a two-year term.

Mr. Yazbak appointed Merredythe Nadeau to a three-year term.

Mr. Zwolenski's appointment was continued to the December 20th meeting.

APPOINTMENT TO HISTORIC DISTRICT COMMISSION

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to reappoint Linda Frye to the Historic District Commission. This is a three-year term that expires December 1, 2013.

Two additional appointments were continued to the December 20th meeting.

APPOINTMENT TO THE JUVENILE HEARING BOARD

MOTION by Mr. Zwolenski, seconded by Mr. McGee and Ms. Alves, and voted unanimously on an aye vote to reappoint Cynthia Lopes to a

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three-year term on the Juvenile Hearing Board. This term will expire on December 1, 2013.

A second appointment was continued to the December 20th meeting.

APPOINTMENTS TO THE PLANNING BOARD

MOTION by Ms. Alves and seconded by Mr. Yazbak to appoint Lucien Benoit to a five-year term on the Planning Board.

MOTION by Mr. Zwolenski to appoint Arthur Bassett to a five-year term on the Planning Board. The motion died for lack of a second.

On a roll call vote for the appointment of Lucien Benoit, the motion passed 4 to 1 with Mr. Zwolenski voting no. This term will expire on December 1, 2015.

MOTION by Mr. Zwolenski and seconded by Mr. McGee and Mrs. Charest to reappoint Joseph Cardello as the 1st Alternate to the Planning Board.

MOTION by Ms. Alves and seconded by Mr. Yazbak to appoint Arthur Bassett as the 1st Alternate to the Planning Board.

Roll call vote on Joseph Cardello: Ms. Alves – no; Mrs. Charest – yes; Mr. McGee – yes; Mr. Zwolenski – yes; and Mr. Yazbak – no. The motion carried 3 to 2. This is a one-year term that will expire on December 1, 2011.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest and Mr. Yazbak, and voted unanimously on a roll call vote to reappoint Arthur Bassett as the 2nd Alternate to the Planning Board. This is a one-year term that will expire on December 1, 2011.

APPOINTMENT TO PUBLIC SAFETY COMMISSION

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to reappoint Paul Connolly to the Public Safety Commission. Due to a town ordinance limiting terms, Mr. Connolly will only be allowed to complete one year of a three-year term.

APPOINTMENTS TO REDEVELOPMENT AGENCY

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on a roll call vote to reappoint John J. Gibbons, III to a five-year term that will expire on December 1, 2015.

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. Zwolenski, and voted unanimously on a roll call vote to reappoint Eric Nascimento to a five-year term that will expire on December 1, 2015.

APPOINTMENT TO SEWER COMMISSION

MOTION by Mrs. Charest and seconded by Mr. McGee to table this appointment to the December 20th meeting.

MOTION by Mr. Zwolenski to reappoint Shawn Kane to a five-year term on the Sewer Commission. The motion failed for lack of a second.

The motion to table to the 20th passed unanimously on an aye vote.

APPOINTMENTS TO THE ZONING BOARD

MOTION by Mr. McGee and seconded by Ms. Alves and Mrs. Charest to appoint Paul Pasquariello to a five-year term on the Zoning Board.

MOTION by Mr. Zwolenski to appoint Mario DiNunzio to a five-year term on the Zoning Board. There was no second.

The motion to appoint Paul Pasquariello to a five-year term on the Planning Board passed unanimously on a roll call vote.

MOTION by Mr. Zwolenski and seconded by Mrs. Charest to reappoint Mario DiNunzio as the 1st Alternate to the Zoning Board.

MOTION by Ms. Alves and seconded by Mr. Yazbak to appoint Scott Martin as the 1st Alternate to the Zoning Board.

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The motion to reappoint Mario DiNunzio passed unanimously on a roll call vote. This is a one-year term that will expire on December 1, 2011.

MOTION by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on a roll call vote to appoint Scott Martin as the 2nd Alternate to the Zoning Board. This is a one-year term that will expire on December 1, 2010.

APPOINTMENT OF VETERANS ADVISOR

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on a roll call vote to reappoint H. Farrell McMillan as the Veterans Advisor. This is a two-year term that will expire on December 1, 2012.

APPOINTMENT OF SEALER OF WEIGHTS AND MEASURES

MOTION by Ms. Alves, seconded by Mrs. Charest, and voted unanimously on a roll call vote to reappoint Steven Niedzwiadek as the Sealer of Weights and Measures. This is a two-year term that will

expire on December 1, 2012.

POLICE DEPARTMENT CONTRACT

Mrs. Charest was disappointed with the Police Department contract and would like to reopen it if possible.

The day after the November 2nd election, Mr. Yazbak had sent an email to the sitting Council asking that all contracts await ratification from the new Council. He understood that they felt they were boxed in because the contract had already been signed without authorization and if the Council did not approve it, the town would be subject to an unfair labor lawsuit. Mr. Yazbak also hoped Mrs. Hamilton would inquire as to whether the police department union would be amenable to reopening negotiations.

Mrs. Hamilton clarified that there was an agreement that was brought to the Council but it would only become effective upon ratification by the Council. The reason there was going to be an unfair labor practice suit filed was if the contract was not ratified. Mrs. Hamilton did agree to approach the union to see if they would consider reopening negotiations.

William Nangle of 3 Indigo Farm Road questioned whether it was an agreement or a contract and if it was signed when it was brought before the Council, then it is not valid. He would like the Town Council to investigate.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote at 10:34 P.M. to extend the meeting to 11:00 P.M.

MOTION by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on a roll call vote to formally ask the Town Administrator to ask the police department union to reconsider this contract that was just ratified.

EXECUTIVE SESSION

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 10:36 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss Turcotte vs. the Town of North Smithfield.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to come out of executive session at 10:40 P.M. and to seal the minutes. No motions were made and no votes were taken.

Turcotte vs. Town of North Smithfield

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted 4 to 1 (Mr. Zwolenski voted no) on an aye vote to approve the settlement tentatively entered into by the Town Solicitor and opposing Counsel.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to adjourn at 10:41 P.M.